

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on January 15, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: Rep. Daniel Fuchs (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 96, HB 175, HB 180,
1/12/2001
Executive Action: HB 180

HEARING ON HB 96

Sponsor: REP. JOAN HURDLE, HD 13, Billings

Proponents: Dr. Robert Shepard, Gov.'s Adv. Council on Tobacco
Cliff Christian, American Heart Association
Stacy Cline, Billings, Mt. People's Action
Linda Stoll, Mt. Local Health Officers' Group
Chantel Gambole, Missoula, Mt. People's Action
Julie Bunton, Missoula
Claudia Clifford, State Auditor
Verner Bertelsen, Mt. Senior Citizens' Assn.
Steve Yeakel, Mt. Council for Maternal & Child Health
Kathy McGowan, American Cancer Society
Jani McCall, Deaconess Billings Clinic
Mary McCue, Exec. Dir., Mt. Dental Assn.
Shelly Meyer, Missoula County public health nurse
Sami Butler, Mt. Nurses' Assn.
Aidan Myhre, Mt. Comprehensive Health Care Assn.
Beda Lovitt, Mt. Medical Assn.
Bill Chickanie, Billings,

Opponents: Mike Fellows, Chairman, Mt. Libertarian Party

Opening Statement by Sponsor:

REP. JOAN HURDLE, HD 13, Billings, said that this bill deals with the tobacco award settlement funds, which Montanans believe should be spent on health or health-related programs. Forty percent of this money was placed in the health care trust, which was passed by voters in November, and this bill deals with the other sixty percent of the funds. The amount in the bill parallels previous appropriations for the tobacco prevention program, for CHIP medicaid and those kinds of programs. For example, the tobacco prevention program got \$7 million or so from the last legislature for the biennium, and they have done very well with that money. They've got tobacco prevention programs going in nearly every county, a statewide prevention hotline, and cessation, counseling and referral programs. The proposed budget cuts the \$7 million tobacco prevention program to \$1 million for two years, which kills their program. The most tragic part of that is that Rep. Hurdle doesn't think any of the legislators want to be accused of allowing kids to smoke to protect our revenue source, which is what happens. Our tobacco settlement award funds go down when people quit smoking, so by not having our tobacco prevention program, we're protecting our revenue.

Rep. Hurdle referred to a fact sheet explaining the allocation of the funds. The most innovative program, which provides for local prevention initiatives, is the money that goes to the city-county health departments to be used for such programs as school nursing and child case management. Our children are really neglected, and we pay for it in foster care, emergency rooms and special ed programs. Prevention works and saves money, so let's get these nurses in our schools and day cares to do referral and case management and provide direct care and start taking care of our children in a unique way in every locality. Each county would at least be able to hire a public health nurse with the \$35,000 minimum amount, and the amount would be more in the highly-populated counties because it is based on how many children are in the county. This bill provides an opportunity to raise healthy, tobacco-free kids in Montana. The statutory appropriation is perfectly appropriate, as most statutory appropriations deal with investments and bonding; and this is an investment in the children of Montana. **EXHIBIT(huh11a01) {Tape : 1; Side : A; Approx. Time Counter : 1 - 9.6}**

Proponents' Testimony:

Dr. Robert Shepard, Governor's Advisory Council on Tobacco, said that when the tobacco settlement monies were finalized, Governor Racicot appointed a statewide citizens' council, which held its first meeting in September of 1999. Over a four-month heavy meeting schedule, the Council came together with a program to advise the Department and the Governor on the expenditure of the tobacco settlement that the Legislature had authorized for tobacco prevention in the last session. The Council had a total of approximately \$5 million to spend. They studied programs from other states that were effective in reducing the incidence of smoking, including those of California, Massachusetts, Florida and Oregon. Smoking prevention policies and projects work, and over time we can begin to counter the influence of big tobacco on smoking prevention. The Council's proposed budget for the next biennium that was presented to Governor Racicot was lower than the previous money that had been appropriated, and he was not willing to increase it. It was further reduced in Governor Martz's budget, but the Council hopes to work with her to try and increase the budget. This bill will put the money back into tobacco use prevention.

The suit against the tobacco companies was based on the premise that these companies should reimburse the states for their spending of exorbitant amounts of money on tobacco-related health costs as part of the medicaid program. As part of the discovery process, an incredible amount of information came out from the tobacco companies about their deliberately manipulating the nicotine level in cigarettes to increase their addictiveness. The

tobacco companies have been duplicitous with the American people and have been downright evil in their approach to marketing their product. As a result, people are dying and will be dying over the next decades because of tobacco. The premise of the money was to reimburse the states for their medicaid costs. The money, as it's currently being appropriated, goes 100 percent to the general fund. There isn't any reimbursement. That money is no longer being used for the health care costs incurred that justified the suit in the first place. Dr. Shepard urged the committee to consider restoring that money to health care and using any savings that might occur in the general fund for other projects. **{Tape : 1; Side : A; Approx. Time Counter : 10.9 - 17.4}**

Cliff Christian, American Heart Association, said that today in Montana four people will die from the use of tobacco; 1434 families will lose family members this year because of tobacco; every person in Montana will pay \$175 this year because of tobacco; and a total of \$115 million will be spent in Montana this year for tobacco-related health costs. The tobacco settlement fund is estimated to be \$60 to \$70 million for the biennium, and it would take approximately \$18 million over the biennium to implement a comprehensive statewide tobacco prevention and education program. The current budget of \$7 million for the biennium has been reduced to \$1 million, which is devastating. We need to fund the comprehensive tobacco program this session, because by 2003 the tobacco settlement money will have lost its identity in the general fund. House Bill 96 really is a good bill and is the answer. **{Tape : 1; Side : A; Approx. Time Counter : 17.6 - 21.5}**

Stacy Cline, Billings, Mt. People's Action, said that Montana's working families are trapped without access to affordable health insurance. In 1999, Montana's per capita income was \$22,019, ranking 46th in the nation. Under current guidelines, parents in households with these incomes could not qualify for insurance for their children through the state unless there are four or more members in the family. Only 40 percent of Montana employers offer health benefits to employees. This bill is a good idea. **{Tape : 1; Side : A; Approx. Time Counter : 21.5 - 23.2}**

Linda Stoll, Mt. Local Health Officers' Group (public health officers for seven counties). Missoula County efforts in preventing tobacco use among young people have shown very promising results to date. In 1993 it was estimated that the amount of direct medical costs related to smoking in Montana was \$153 million. There are 130,000 adult smokers in Montana. For a pack-a-day smoker, the habit costs approximately \$100 a month. If 10 percent of the smokers quit in a year, those 13,000 people would save \$1,300,000 a month or \$15,600,000 a year. Instead of leaving the state, this money would impact Montana's local economy. This bill is good for

the kids, great for the health of Montanans and is an economic development bill. **EXHIBIT(huh11a02)** **EXHIBIT(huh11a03)** **EXHIBIT(huh11a04){Tape : 1; Side : A; Approx. Time Counter : 23.2 - 29.4}**

Chantel Gambole, Missoula, Mt. People's Action, stated that Montana should use the tobacco money to provide health insurance in Montana. It would allow the state to leverage nearly three times more federal dollars for every dollar dedicated to expanding Montana's current health insurance programs. As a child in a single-parent household, she has no health insurance, and this bill would allow her to obtain insurance. **{Tape : 1; Side : A; Approx. Time Counter : 29.6 - 30}**

Julie Bunton, Missoula, said that expanding the CHIP program is the best use of the tobacco money. We can insure the most of our families at the least cost, as the government matches our money three to one. **{Tape : 1; Side : A; Approx. Time Counter : 30 - 31.3}**

Claudia Clifford, State Auditor and Insurance Commissioner's office, stated that the Insurance Commissioner is very supportive of the concept of this bill of appropriating the tobacco settlement funds towards health care. Last session some of the tobacco settlement dollars were allocated to the Montana Comprehensive Health Association, a program that serves as a health insurer of last resort by providing health insurance to people who had been rejected for health insurance; and it provides insurance to people leaving group policies who have health care problems and need individual policies. This program is explained further in The last legislature had appropriated \$2 million for the MCHA. The sponsor of this bill has indicated a willingness to make the bill fit the needs of MCHA. Another bill is being offered to allow MCHA to offer reduced premium rates to low-income individuals who qualify, if funding is made available. **EXHIBIT(huh11a05) {Tape : 1; Side : B; Approx. Time Counter : 0 - 2.3}**

Verner Bertelsen, Mt. Senior Citizens' Assn., said that senior citizens support this bill. Many of their health problems that have led to a need for portable oxygen or rest homes are due to tobacco. This bill is an opportunity to be sure that Montana continues to fight the tobacco companies and tries to protect our children and adults from the continued use of tobacco. MSCA urges support of this bill to ensure that its worthwhile projects become reality in Montana. **{Tape : 1; Side : B; Approx. Time Counter : 2.5 - 3.9}**

Steve Yeakel, Mt. Council for Maternal and Child Health, said the Council had talked with more than 500 Montanans across the state during their November-December community forums, and there was

great support for making sure the tobacco suit funding doesn't lose its identity in the budget process. This bill contains many incredibly worthy investments. Don't let levels of funding obscure the dramatic need to preserve identity for tobacco funding in this session. **{Tape : 1; Side : B; Approx. Time Counter : 4.1 - 5}**

Kathy McGowan, American Cancer Society, asked the committee to look favorably on this bill and others like it to make sure that these funds are dedicated to health care. The ACS is particularly interested in prevention. **{Tape : 1; Side : B; Approx. Time Counter : 5.1 - 6}**

Jani McCall, Deaconess Billings Clinic, stated that Montana needs to make a firm, complete commitment to tobacco prevention and to health care for its citizens. **{Tape : 1; Side : B; Approx. Time Counter : 6 - 6.6}**

Mary McCue, Exec. Dir., Mt. Dental Assn., echoed the comments of the three previous speakers. **{Tape : 1; Side : B; Approx. Time Counter : 6.6 - 7.0}**

Shelly Meyer, Missoula County public health nurse, has worked for the past three years on a project called *Healthy Child Care Montana*, which is funded by a federal grant. Through the Early Childhood Services Bureau and a specialized training grant, \$15,000 was granted for year 2000 and split 12 ways, through the 12 child care resource and referral districts. Each district took their \$1250 and contracted with public health nurses in one or more of the three to six counties that they serve. This small amount of money proved to be very effective for public health departments in providing services such as outreach, health education and telephone consultations for child care providers, health articles in newsletters, educational site visits to child care providers, workshops and other educational opportunities. The \$35,000 annually that is provided in this bill could make a huge difference in health outreach for children. **{Tape : 1; Side : B; Approx. Time Counter : 7.1 - 10.5}**

Sami Butler, Mt. Nurses' Assn., stated that nurses have a real focus on prevention, and they urge that 100 percent of the tobacco settlement funds go to health care. **{Tape : 1; Side : B; Approx. Time Counter : 10.6 - 10.9}**

Aidan Myhre, Mt. Comprehensive Health Care Assn., said that MCHA covers 2000 individuals and it is growing. There is a direct correlation between tobacco use and high-risk individuals who cannot get health insurance on the regular market. **{Tape : 1; Side : B; Approx. Time Counter : 11 - 11.7}**

Beda Lovitt, Mt. Medical Assn., echoed the comments of other health care providers by urging that the identity of the settlement funds be preserved. These dollars belong in health care, and this bill is a good way to do that. *{Tape : 1; Side : B; Approx. Time Counter : 11.8 - 12.2}*

Bill Chickanie, Billings, hopes that 100 percent of this money will be utilized for health care. School or county nurses are the primary care givers for many children, and there aren't enough resources to meet the needs. As a former teacher, he knows that preventative action works. *{Tape : 1; Side : B; Approx. Time Counter : 12.4 - 13.4}*

Opponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 13.9 - 15.4}

Mike Fellows, Missoula; Chairman, Mt. Libertarian Party, said that previous testimony has indicated that this law is a result of the fact that we need to recover some of the medicaid costs. That's where the money should go rather than to save youth from big tobacco and to pay for politicians' favorite spending programs. Smokers pay enough in taxes right now to pay for the smoking-related costs. All of the tobacco settlement money should go to medicaid to pay for smoking-related costs.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 15.9 - 25.9}

Rep. Schmidt asked if the MCHA health insurance plan should be plugged into this bill or into the eight percent that was allocated to the general fund. **Claudia Clifford** said they are requesting \$2 million, and where it comes from is up to the committee. **Rep. Hurdle** said it is all arbitrary, but the MCHA portion could come out of the eight percent.

Rep. Brown asked **Rep. Hurdle** if the 12 percent designated for medicaid and the children's health insurance program was supposed to be equal. **Rep. Hurdle** said when they appropriated money during the last legislative session for CHIP and medicaid, it was written that way: CHIP/medicaid; and they depended on the Department to determine how best to use the money. This bill was written to parallel what they did before.

Rep. Brown said that several proponents had testified that if this bill passed, they would get health insurance, and he asked **Rep. Hurdle** how this would occur. **Rep. Hurdle** said she had the same concern when she heard the testimony, but thinks they were referring to the fact that it had previously been planned to expand CHIP, possibly even to cover single mothers. Now the expansion of CHIP has been cut. Money allocated through this bill does not supplant any funds that have been allocated but supplements them, so perhaps there could be more expansion of CHIP with these extra funds. Everything this bill does in its present form is for children.

Rep. Esp asked **Shelly Meyer** to clarify the county in eastern Montana to which she had referred in her testimony. She responded that it was Richland County.

Rep. Facey asked if there was a fiscal note with the bill. **Rep. Hurdle** said there was no fiscal note because this bill statutorily allocates tobacco funds that are coming in at present to the general fund. The fiscal note would probably tell you what a hit there would be to the general fund. This is specifically tobacco award settlement funds, which everybody, she thinks, morally and ethically agrees should be spent on health care.

Rep. Newman asked the sponsor if the bill in its current form not only recognizes the need to assist CHIP and do tobacco prevention programs for children, but would tobacco-related health costs for seniors also be addressed. **Rep. Hurdle** assumed that would be part of the medicaid expansion through the Dept. of Public Health. **Rep. Newman** asked **Rep. Hurdle** if she would consider a possible use of some of the tobacco settlement money in a program such as a tax credit or a rebate to seniors for the spiraling prescription costs that they face. **Rep. Hurdle** responded that anything like that could be considered. Prevention pays, so she had tried to focus this bill on prevention.

In Dr. Shepard's absence, **Rep. Schmidt** asked **Drew Dawson**, Dept. of Public Health and Human Services, if he recalled any discussion by the Advisory Council relating to seniors. **Mr. Dawson** said there is no specific component relative to seniors in terms of tobacco use prevention, but the cessation program is applicable to both youth and adults, and that would be the portion that probably would be applicable to seniors.

Closing by Sponsor:

Rep. Hurdle said that in the Yellowstone County Health Department, as is probably true in most counties, the county health people participate in the tobacco prevention program. She is talking about

public health nurses in public schools where the children are and coordination there with not only the tobacco prevention program but also with the mental health department. The bill also allocates ten percent to DPHHS for the five mental health regions for preventative, evaluative and direct services to children in coordination with school nursing and for stepdown care, in order to prevent more serious and long-term illnesses. Stepdown care is a huge need. The school nurse is the only medical professional in the education settings and may be the only medical resource a student and family is willing to seek out. School nursing is an avenue to address many health problems. According to a recent survey of school nurses by the National Assn. of School Nurses, 98 percent of school nurses have saved a child's life. 82 percent of school nurses have identified an abused child. 67 percent of school nurses have counseled a depressed or suicidal student. Senator John McCain has been quoted as saying that if states don't use this money for health care, we ought to take it back. *{Tape : 1; Side : B; Approx. Time Counter : 25.9 - 28.8}*

HEARING ON HB 175

Sponsor: REP. LARRY JENT, HD 29, Bozeman

Proponents: Pam Bucy, Assistant Attorney General
Gary Dale, State Medical Examiner
Tim Wong, Montana Coroners' Assn.

Opponents: None

Opening Statement by Sponsor:

REP. LARRY JENT, HD 29, Bozeman, said that the purpose of the bill is to aid coroners and the state medical examiner in determining the cause of death. The effect of the bill is to allow the medical records to be released to the coroner or the state medical examiner for use in determining cause of death. The information is required to be held confidential as provided by law. Usually it is not a problem, but when it is, the lack of those records may result in an unnecessary autopsy being performed, either by the county coroner or the state medical examiner. Medical records frequently provide them with information and important clues. Although most of the deaths investigated by coroners and medical examiners are due to natural causes, that is unknown at the start of the investigation so all information that can be obtained is important, including medical records. The reason for the bill is to address a conflict in certain statutes governing coroners' subpoenas, which are found

in Title 44, MCA, and the Mt. Health Care Information Act, 50-16-501. Hospitals are bound by the Act, which provides certain narrow exceptions, which are that a court has determined the information is subject to compulsory process or it's requested pursuant to investigative subpoena. The trouble with those exceptions is that subsection (j) doesn't apply because a coroner's subpoena isn't issued under that relevant statute, and the other subsection does not apply because it doesn't supply the clear and certain rule necessary under the Act. A recent case arose in Missoula where the hospital was in the situation of possibly being in violation if they did disclose, possibly being in violation if they didn't disclose, because the two acts, one in Title 50 and one in Title 44, may not be reconcilable. For that reason, the Attorney General requested a clarification of the law. While most of the time it isn't a problem, when it is, the lack of clarity may well cause an unnecessary autopsy, which is one of the reasons this bill has been requested. **EXHIBIT(huh11a06) {Tape : 2; Side : A; Approx. Time Counter : 0 - 4.9}**

Proponents' Testimony:

Pam Bucy, Assistant Attorney General, said that this bill was requested by the Attorney General and particularly the State Medical Examiner. In 1987 the Montana Legislature adopted the Health Care Information Act, which contains language offering significant protection for the confidentiality of patient records and restricts disclosure of this kind of information. The Act lists several situations in which disclosure of patient information without authorization is appropriate. Subsection 3 of that section, which is 50-16-530, lists release of medical records to federal, state or local law enforcement authorities to the extent required by law. That at this point is the authority by which medical records are turned over to county coroners. That is appropriate, because many county coroners operate under their local sheriff's departments. However, not all of them do, and that is the problem. Most hospitals and clinics are cooperative with this and we have very little problem, but there is one hospital, or clinic, citing restrictive language in the HCIA, that has refused to cooperate with the coroner's request. This defeats the purpose of the law enforcement and county coroner exceptions, and it seriously impedes the duties of county coroners in determining the cause of death. This bill clarifies the language in the HCIA to include county coroners and medical examiners as people who would get medical information without the patient's authorization. That amendment further specifies that that information is required to be held confidential, as required by law. This bill is simply a clarification of the law. It is how the law is practiced now, but

it is important to clarify so there is no confusion of what the law is. **{Tape : 2; Side : A; Approx. Time Counter : 4.9 - 7.7}**

Gary Dale, State Medical Examiner, said that part of the thrust of this legislation was problems that have arisen during his ten year tenure in his position. Generally it was not a problem. The patients referred to are decedents whose deaths fall under inquiry. Such deaths are mandated to be inquired into by the coroners and by the State Medical Examiner. His primary job is to assist the coroners of the state in their determination of both cause and manner of sudden unexpected deaths, which is the primary death covered under the coroners' statute. Contrary to popular belief, the most common manner of deaths investigated by coroners are actually natural deaths, and the most common of those is heart disease, coronary artery disease. He frequently delves into the decedents' medical records and is in a position to frequently request them. Usually there are no problems. Problems arise typically when there is a switch in the administration of the medical records' department of a facility, or through consultation with their counsel. This bill would eliminate conflicts. **{Tape : 2; Side : A; Approx. Time Counter : 7.7 - 9.8}**

Tim Wong, Montana Coroners' Assn., has been the Cascade County deputy coroner for about nine years and is here representing all Montana coroners. In death investigations, coroners certainly like to view the medical records. In Cascade County, fortunately with the great volume of cases they handle, they have a very good working relationship with the hospital. Being a sheriff-coroner combined, he has access to the records on a regular basis, which saves time, thus better serving the public. He supports the bill on behalf of all coroners in the state. **{Tape : 2; Side : A; Approx. Time Counter : 10 - 11}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 11.4 - 21.2}

Rep. Brown asked the sponsor for clarification, giving the example of a person who had died under unusual circumstances, and the state medical examiner had trouble determining the cause of death so requested medical records. In this particular example, the person had AIDS, and his family did not want that disclosed, or he particularly did not want it disclosed. Is there anything in this bill that would affect the situation? **Rep. Jent** said the

information is required to be held confidential as provided by law, and only the county coroner can have that information. There are also other confidentiality statutes, including the Montana Criminal Justice Information Act, which is an additional source of a "lockbox" for confidential information. That's why that last clause is in section 8 of the statute. Elsewhere in Title 50 there are confidentiality clauses, as there are in Title 44, which is the Criminal Justice Information Act.

Rep. Noennig asked **Pam Bucy** what hospital was referred to in her testimony as being uncooperative in providing information to the coroner. **Ms. Bucy** it was Community Hospital in Missoula and actually they didn't necessarily refuse, they wrote a letter to everybody saying they just wanted clarification on this so were going to move to quash the coroner's subpoena so they could get clarification. **Rep. Noennig** asked for an explanation of why there isn't authority to do this already. **Ms. Bucy** said that section 50-16-530, MCA, subsection 3, authorizes the disclosure without the patient's authorization to federal, state or local law enforcement agencies; and it is that authority that county coroners are currently using to receive this information. Most coroners operate under the auspices of the county sheriff's department. However, there are some that don't, and that is the problem and the reason we are asking for the clarification. **Rep. Noennig** asked about the subpoena power of the coroner during the inquiry. Can't a coroner informally ask for this information, and if refused, obtain a subpoena to get it? **Ms. Bucy** responded that they can. The coroner's subpoena isn't the same as other subpoenas, but is simply a request by the coroner. It's not signed by a judge, and that's what the hospitals were asking for. Instead of just turning over the information, they wanted a court order that said they had to turn over the information. **Rep. Noennig** asked if the coroner's subpoena is just something that they can issue, why is that not sufficient to get the information? **Ms. Bucy** said that the hospital did not honor that subpoena because they did not think the coroner had the authority to ask for the information without a court order, because all of the rest of the disclosure provisions in this act require court-ordered disclosures. **Rep. Noennig** asked if it is their position that if this bill passes, a coroner could request the information without issuing a subpoena. **Ms. Bucy** said no; the coroner would still issue subpoenas, but they would not be signed by judges.

Rep. Facey asked **Tim Wong** if on the death certificate where it says "cause of death" there a box that says "natural" or must the coroner write that down. **Mr. Wong** responded that there are two separate parts to the death certificate. The middle part is for the actual cause of death. In the left lower corner of the certificate there are six manners of death, including "undetermined," and the

coroner checks the appropriate box. **Rep. Facey** asked if on the death certificate it indicated that a person died of natural causes, would the coroner ever write on it that the person had cancer or another disease. **Mr. Wong** said yes. If the State Medical Examiner performs an autopsy for them and provides a cause of death, that will be noted on the death certificate. If a patient dies at home and the coroner obtains that person's medical history and finds that the history is significant for heart-related problems or coronary artery disease, and if the person is 70-some years old and sees a doctor frequently, unless a family wanted an autopsy, the coroner would review that medical record and likely not order an autopsy because of the medical history, but would certify it as a natural, cardiac-related death.

Rep. Brown asked if the death certificate is a matter of public record and the coroner, using medical records obtained through this statute, determines that the person died due to complications from AIDS, that would be a matter of public record and maybe that person and his family did not want that disclosed. **Rep. Jent** said that is correct, as the death certificate contains the cause of death. A person doesn't die from acquired immune deficiency syndrome but from pneumonia or heart failure or something like that. But, as a cause of death, there is no confidentiality now, it is a matter of public record. The Dept. of Public Health and Human Services has a copy of the death certificate as does the County Clerk and Recorder, so anyone can look up a death certificate now under current law and find out why someone died. **Rep. Brown** said if they did not have those medical records originally and they were not disclosed to the examiner, he may put down "unknown causes." **Rep. Jent** said what he may do is end up performing an unnecessary autopsy to further investigate and determine the cause of death, and that's the reason for this bill.

Closing by Sponsor:

Rep. Jent said that the Mt. Health Care Information Act has strict requirements of confidentiality, and as a public policy, this House enforces those in the statutes that we write. There are only narrow exceptions to those in two subsections. One is for a disclosure pursuant to a criminal investigative subpoena under 46-4-301. The reason that provision doesn't apply is because a coroner's subpoena is not issued under 46-4-301 but under 46-4-112. The coroner's subpoena is not signed by a judge but by the coroner, so there is a legitimate gray area that was raised by the Community Health Center in this case that can be corrected by the addition of new subsection 8 to this statute. It is in the public interest to aid

a coroner's determining the cause of death and to prevent unnecessary and invasive autopsies by passing this bill. **{Tape : 2; Side : A; Approx. Time Counter : 21.2 - 22.8}**

HEARING ON HB 180

Sponsor: REP. TIM CALLAHAN, HD 43, Great Falls

Proponents: Teresa Henry, Missoula, APRN

Joe Connell, Chief Probation Officer, 5th District

Sandy Oitzinger, Exec. Dir., Mt. Juvenile Probation
Officers' Assn.

Sami Butler, Exec. Dir., Mt. Nurses' Assn.

Beda Lovitt, Montana Medical Assn.

Opponents:

Opening Statement by Sponsor:

REP. TIM CALLAHAN, HD 43, Great Falls, said that HB 180 was requested by the Juvenile Probation Officers' Assn. The bill allows poor youth who are in one of our state correctional facilities, Pine Hills or Riverside, to receive a physical exam from a physician, a physician assistant, or an APRN, which is an advanced practice registered nurse. Current law just allows for physicians to perform those. He had contacted the Corrections Department, and Steve Gibson at Pine Hills said they have no problem with this change, however they have been limited in the past and they refused to accept kids who had had physicals from someone other than a physician. **{Tape : 2; Side : A; Approx. Time Counter : 23.4 - 24.8}**

Proponents' Testimony:

Teresa Henry, Missoula, APRN, said that she is a nurse practitioner who has performed thousands of physical exams during the past 20 years. Performing complete physical exams and screening tests is well within the scope of advanced practice registered nurses and physicians' assistants certified. Currently nurse practitioners can perform exams for class two drivers' licenses as well as sign reports of work comp-related injuries and illnesses. This is consistent with current practice. APRNs are cost-effective primary care providers and are able to provide this service. This bill allows APRNs and PACs, along with physicians, to perform exams prior to admission to a youth correctional facility, and that's a

reasonable use of their skills. **{Tape : 2; Side : A; Approx. Time Counter : 24.9 - 26.2}**

Joe Connell, Chief Probation Officer, 5th Judicial District, and immediate past president of their association, supports the bill and is available to respond to questions. **{Tape : 2; Side : A; Approx. Time Counter : 26.4 - 26.7}**

Sandy Oitzinger, Exec. Dir., Mt. Juvenile Probation Officers' Assn., said that the association support the bill. It is legislation that is very sensible and will assist all juvenile probation officers but especially those in rural areas. **{Tape : 2; Side : A; Approx. Time Counter : 26.8 - 27.3}**

Sami Butler, Exec. Dir., Mt. Nurses' Assn., who is a registered nurse, said they support the bill and see it as an improvement to access to care. **{Tape : 2; Side : A; Approx. Time Counter : 27.4 - 27.6}**

Beda Lovitt, Montana Medical Assn., said they are in support of the bill and think it is very appropriate that these individuals provide this kind of care and increased access to health care. **{Tape : 2; Side : A; Approx. Time Counter : 27.7 - 28}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Newman asked the sponsor if anyone on the committee had been asked to move his amendments. **Rep. Callahan** said in his haste he had neglected to mention that an amendment had been distributed. As originally drafted, the bill included only physician assistants. He had asked **Rep. Schmidt** to propose the amendment.

Rep. Facey asked if the term "licensed physician assistant certified" was correct or if it should it be "certified licensed physician assistant." **Ms. Butler** responded that it is correct. **{Tape : 2; Side : A; Approx. Time Counter : 28.6 - 30.3}**

Closing by Sponsor:

Rep. Callahan was not present to close, asked to excused to go to his committee.

{Tape : 2; Side : A; Approx. Time Counter : 30.3 - 33; }

*{Tape : 2; Side : B; Approx. Time Counter : 0 - 2.2; Comments :
Tape is blank to this point.}*

EXECUTIVE ACTION ON HB 180

{Tape : 2; Side : B; Approx. Time Counter : 2.2 - 3.4}

Motion: REP. FACEY moved that HB 180 DO PASS.

Motion/Vote: REP. SCHMIDT moved that HB 180 BE AMENDED. Motion
carried 16-0. **EXHIBIT**(huh11a07)

Motion/Vote: REP. FACEY moved that HB 180 DO PASS AS AMENDED.
Motion carried 16-0.

ADJOURNMENT

Adjournment: 4:25 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Transcribed by Jan Brown

EXHIBIT (huh11aad)